SUPREME COURT OF THE UNITED STATES

No. 25-5881

JOHN FAKLA,
Petitioner,

v.

MATTHEW GEIST,
Middlesex Borough Police Chief, Individually and in His Official Capacity,
et al.,
Respondents.

REPLY BRIEF FOR PETITIONER

John Fakla
Petitioner, Pro Se
521 Norwich Court
Piscataway, New Jersey 08854
732-754-9627
JFakla37@gmail.com

Petitioner proceeds in forma pauperis pursuant to Supreme Court Rule 39.

Filed: December 8, 2025

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INTRODUCTION

Respondents' opposition begins-and ends-with the same tactic that defined the proceedings below: cabining the record, erasing the procedural history, and substituting stigma for law. Their brief misstates facts, distorts holdings, and relies on personal attack rather than legal reasoning. That tactic is not new. For more than a decade, officials have deflected scrutiny by weaponizing mental-health labels to avoid accountability and shift the focus away from their own misconduct. Calling Petitioner's filings "rambling" or "incoherent" is not an argument-it is a stigma, and it reflects a broader national pattern. Across the country, § 1983 cases involving discovery obstruction, municipal misconduct, and retaliatory psychiatric framing are increasingly resolved through unpublished decisions that amputate context and elevate government-manufactured voids into "undisputed" records. This case is the blueprint of that problem: core discovery withheld, court orders ignored, hearings never properly adjudicated, evidence sealed off, timelines arbitrarily truncated, mental-health labels weaponized, and summary judgment granted on the very gaps the government created. It is a stark example of how non-precedential dispositions can entrench constitutional violations while insulating them from meaningful review. Judicial avoidance is not a waiver.

This case is not about factual disputes. It is about systemic procedural collapse that violates the Constitution and this Court's precedents. The reality is direct and unavoidable: this case is not fact-bound - it is process-bound. And the process failed.

The errors below began with a truncated record and ended in a truncated constitutional analysis. In *Barnes v. Felix*, 145 S. Ct. 1353 (2025), this Court unanimously rejected the "moment-of-threat" rule and made clear that Fourth Amendment reasonableness cannot be evaluated through isolated snapshots but must account for the entire sequence of events. Id. at 1358–59. That rule—that courts may not "put on chronological blinders" or allow the government to define the timeline (145 S. Ct. at 1359). Yet that is what occurred here: The courts relied on a single post-hoc 'competency' affidavit-created only after litigation began-while ignoring years of prior interactions, incomplete internal-affairs investigations, withheld discovery, and escalating abuse of emergency psychiatric mechanisms. Barnes does not announce a new rule; it crystallizes a principle this

Court has long enforced - constitutional reasonableness cannot be assessed through a record the government has artificially narrowed. Rule 37 was nullified, Rule 56(d) was ignored, discovery orders were not enforced, and summary judgment was granted on an incomplete one-sided record the government itself created. The District Court relied on silence it created. Magistrate Judge Kiel convened an off-the-record sanctions hearing that was never docketed or memorialized in any transcript, leaving the status of Plaintiff's Rule 56(d) requests and discovery disputes intentionally opaque. The appellate court then treated that artificially incomplete record as 'undisputed'-the exact scenario Rule 56(d) forbids. The district court's invented June 17, 2020 cutoff-applied only against Petitioner-violates *Coello v. DiLeo*, 43 F.4th 346 (3d Cir. 2022), misapplies federal accrual doctrine, and turned the statute of limitations into an evidentiary gag rule that shielded Respondents' misconduct while silencing Petitioner's evidence of motive, pattern, and malice. The courts below also bypassed Monell entirely, dismissing the Police Department as a non-suable entity and then refusing to analyze the Borough's policies, investigative failures, or coordination with prosecutors. The courts likewise disregarded the extensive record showing coordinated misuse of psychiatric procedures by police, prosecutors, and affiliated clinicians to prolong prosecution, sanitize misconduct, and suppress Petitioner's civil-rights claims-conduct that raises issues of exceptional national importance.

The judgment below cannot be reconciled with *Thompson v. Clark*, 596 U.S. 36 (2022). The 2019 dismissal with prejudice is a favorable termination as a matter of law, yet the courts below rewrote that order by importing psychiatric language from an entirely different proceeding. The full 2012-2021 chronology was already before the judge who granted the 2019 dismissal with prejudice. The dismissal followed a full adversarial hearing at which the court considered the complete history of interactions, evaluations, and allegations. The lower courts' later effort to carve up that timeline-treating pre-2020 events as "off limits" or importing dismissal findings from a separate 2017 case-cannot be squared with the record that actually supported the 2019 dismissal. The resulting decision conflicts with *Thompson*, *Coello*, and *Barnes*, rests on a manipulated record, and reflects the growing use of unpublished dispositions to insulate systemic due-process violations from review. These errors did not arise by accident; they resulted from procedural shortcuts-violations of the Federal Rules, distortions of controlling

precedent, and a pattern of due-process erosion that no constitutional system can tolerate. If left unreviewed, the same tactics will continue to bury civil-rights violations under the label of "fact-specific" unpublished orders and invite government defendants to manufacture one sided "fact specific" records.

I. Respondents Misstate Rule 10 and the Nature of This Case

Respondents' claim that this Petition "grossly fails" Rule 10 because the decision below is "unpublished" and "fact-specific" is backwards. The unpublished nature of the ruling demands review. Across circuits, § 1983 cases are increasingly disposed of in non-precedential orders that:

- deny Rule 56(d) motions in a sentence or footnote;
- tolerate government non-production of core discovery;
- grant summary judgment on "undisputed" facts created by obstruction; and
- misread Thompson by treating dismissals without conviction as unfavorable.

This case is a textbook example. As in *Coello*, the lower courts treated a record distorted by discovery violations as though it were complete. And as Barnes confirms, constitutional analysis requires consideration of the entire factual context, not a narrow "moment" or an after-the-fact affidavit selectively invoked by the government. 145 S. Ct. 1358–59.

The questions presented are purely legal, nationally recurring, and outcome-determinative:

1. Whether the use of Heck to bar Petitioner's § 1983 malicious-prosecution claim conflicts with Thompson's rule that any dismissal without a conviction is a favorable termination;

2. Whether the District Court's sua sponte June 17, 2020 cutoff—used to exclude nearly a decade of retaliatory conduct—contradicts accrual doctrine and Coello;

3. Whether ex parte denial of sanctions and premature termination of discovery while Defendants withheld IA files, dispatch data, video logs, and prosecutor

communications violated Rule 37, Rule 56(d), and due process;

4. Whether summary judgment may stand when granted on an incomplete record while simultaneously dismissing the police department and bypassing Monell analysis; and

5. Whether coordinated use of psychiatric evaluations to criminalize speech, sanitize misconduct, and suppress civil claims presents an issue of exceptional national importance.

None of these questions involve credibility disputes. The District Court held no evidentiary hearing, took no testimony, and granted summary judgment on an incomplete record. The Third Circuit affirmed in an unpublished order. That is precisely when Rule 10 review is most warranted

II. The Judgment Rests on an Incomplete Record Manufactured Through Discovery Violations

The record was incomplete because government defendants ensured it was incomplete

Discovery closed with open sanctions violations and while every critical category of evidence remained unproduced: IA files #2013-03-01 and #2013-03-02, the MCPO investigation file (#19-00590), station-camera footage, preservation logs, dispatch data, and coordination emails with prosecutors. Petitioner moved to compel, sought Rule 37 sanctions, filed a detailed Rule 56(d) declaration tying each missing category to the elements of malicious prosecution, and sought reconsideration. Magistrate Judge Kiel even held an "off-the-record sanctions hearing" that was never docketed, leaving the discovery posture intentionally opaque. Discovery was then terminated, and summary judgment was granted precisely because this evidence—still in the government's exclusive control—was missing. The Third Circuit affirmed without addressing the defect. Under Coello, courts may not treat a record distorted by discovery violations as complete.

Doctrinal Violations / Rule 10 Significance

- **Rule 37** was violated: sanctions were denied ex parte and without a proper record.
- **Rule 56(d)** was violated: summary judgment issued while material evidence remained exclusively in the government's possession after a detailed declaration explaining its necessity.
- **Coello** was violated: the courts treated a government-manufactured evidentiary void as an "undisputed" record.

This is not a factual dispute; it is a procedural breakdown. The recurring pattern—denying sanctions, closing discovery prematurely, and then using the missing evidence against the § 1983 plaintiff—is increasingly entrenched in unpublished dispositions.

Respondents call the discovery dispute "routine." It was not. Discovery closed while every category of evidence bearing on probable cause, malice, coordination, and motive remained unproduced. Sanctions were motioned because they wouldn't produce discovery, Yet while sanctions were open in an *ex parte* hearing the magistrate terminated discovery, and the District Court granted summary judgment based on the absence of the very evidence Respondents withheld. Petitioner did not sit silently: he moved to compel, sought sanctions, filed Rule 56(d) declarations, objected to the limitations ruling, sought reconsideration, and preserved each issue on appeal. The District Court's assertion that Petitioner "failed to explain" the relevance of additional discovery is belied by the Rule 56(d) submission itself.

Under Rule 56(d) and this Court's precedents, summary judgment cannot be granted while material evidence is in the exclusive control of the opposing party. Due-process concerns are even more acute when the government is the one withholding the evidence. What occurred here—shutting down discovery, denying sanctions, and then crediting the resulting void as "undisputed"—is structural error, not case management. The volume of pages produced is irrelevant; the missing categories were the ones that matter.

A civil-rights plaintiff cannot be faulted for "lack of evidence" when the government refuses to produce it and the court refuses to enforce its own orders.

That is not fact-finding—it is procedural manipulation, exactly what Coello warned against and Barnes reinforces.

III. Thompson Was Misapplied: The 2019 Dismissal With Prejudice Is a Favorable Termination (Condensed + Stronger)

Thompson v. Clark was misapplied through another form of cabining: importing psychiatric terminology from an unrelated 2017 case to recast a 2019 dismissal with prejudice as something less. The 2019 dismissal with prejudice order/prosecution ended without a conviction, contains no incompetency finding, extinguished the State's ability to refile, and therefore satisfies Thompson's favorable-termination rule as a matter of law. The civil courts applied a narrower view of favorable termination than the criminal judge who dismissed the case, a constitutional inversion Thompson does not permit. By collapsing two separate cases, the lower courts evaded Thompson entirely.

Doctrinal Violations / Rule 10 Significance

- Heck was misapplied in direct conflict with Thompson, which holds that any dismissal without conviction is a favorable termination.
- The courts reframed the 2019 dismissal with prejudice as a "competency" disposition by importing findings from a different 2017 case, dismissed without prejudice and unrelated to the 2019–2021 prosecution.
- Treating the 2019 order as "ambiguous" invites lower courts to thwart Thompson by retroactively sprinkling psychiatric terminology into unrelated criminal histories.
- Respondents preserve this error by narrowing the timeline and pretending the 2019 dismissal was psychiatric simply because a separate 2017 case involved temporary incompetency findings.
- This is a structural misreading of Thompson and Heck that is already recurring nationwide, particularly in cases involving mental-health labels used to sanitize official misconduct.

The favorable-termination analysis below cannot be reconciled with Thompson. Thompson requires only that a case "end without a conviction" and rejects any requirement of affirmative innocence. Here, the criminal court reviewed the full

2012–2021 chronology—including prior evaluations, contacts, and allegations—before dismissing the 2019 case with prejudice. The March 30, 2021 order:

- contains no finding of incompetency;
- contains no finding of dangerousness;
- contains no mental-health disposition; and
- permanently terminated the prosecution; the State took no appeal.

Respondents and the lower courts nevertheless conflated that dismissal with a distinct 2017 proceeding that ended without prejudice, preserved the State's ability to refile, and is irrelevant to this § 1983 action. Defense counsel even produced the 2017 dismissal at a January 18, 2023 hearing without prior disclosure, further muddying the record.

By importing the 2017 incompetency discussion into the 2019 dismissal with prejudice, the courts transformed a textbook Thompson termination into purported "ambiguity." That is precisely the psychiatric relabeling Thompson sought to prevent—allowing the State to avoid accountability by invoking mental-health language wherever convenient.

Under Thompson, the 2019 dismissal with prejudice meets the favorable-termination element as a matter of law. Treating it otherwise conflicts with this Court's precedent and encourages misuse of mental-health labels to block malicious-prosecution claims.

IV. Limitations and Barnes v. Felix, 145 S. Ct. 1353 (2025) and Coello v. DiLeo, 43 F.4th 346 (3d Cir. 2022): One-Sided Chronological Blinders

Coello v. DiLeo, 43 F.4th 346 (3d Cir. 2022)

The district court weaponized the statute of limitations as a one-sided cabining device. Respondents were permitted to rely on pre-2020 conduct to justify probable cause, while Petitioner was barred from using the same period to show retaliation, motive, and pattern. Accrual defines when a claim begins—not what evidence may be considered. Using limitations doctrine as an evidentiary filter contradicts Coello, violates due process, and creates the very chronological amputations

Barnes forbids. The civil court applied a narrower factual record than the criminal court that dismissed the prosecution with prejudice, a constitutional inversion Thompson does not allow.

Doctrinal Violations / Rule 10 Significance

- The June 17, 2020 cutoff conflicts with accrual doctrine and Coello's bar on retroactively redefining claim timelines.
- The criminal court relied on the full 2012–2021 chronology; the civil court excluded it only when Petitioner invoked it.
- Limitations cannot serve as a one-sided evidentiary gag rule, enabling defendants to invoke history while silencing plaintiffs who rely on the same continuity.
- This recurring shortcut appears often in unpublished § 1983 cases and squarely raises a Rule 10 issue.

Barnes v. Felix, 145 S. Ct. 1353 (2025)

Barnes v. Felix directly forecloses the methodology used below. Barnes held that courts may not put on "chronological blinders" and must consider all attendant circumstances. 145 S. Ct. at 1359. Yet the courts confined their analysis to a single July 2019 after-the-fact affidavit while ignoring nearly a decade of ignored IA violations, escalating retaliation, mental-health manipulation, and withheld discovery. The criminal court considered the full timeline; the civil court narrowed it. That is precisely what Barnes prohibits.

Doctrinal Violations / Rule 10 Significance

The courts did exactly what Barnes forbids:

- restricted the timeline;
- ignored all context except when cherry-picking a 2017 order;
- treated an after-the-fact affidavit as "undisputed"; and
- refused to consider withheld IA files, dispatch logs, station video, and prosecutor communications.

This truncated approach collapsed the governing standards on probable cause, malice, favorable termination, and summary judgment. Barnes, Coello, Thompson, and longstanding summary-judgment doctrine all require evaluating the full record—not a sliver selected by the government. This recurring use of chronological blinders in unpublished dispositions warrants Rule 10 review.

The statute-of-limitations ruling compounded the Thompson error. Though the wording was later amended, the application did not change: the court relied on pre-2020 events (including 2019 conduct) to support Respondents' narrative while treating Petitioner's evidence from the same period—documenting retaliatory intent, IA failures, and continuous misconduct dating back to 2012—as irrelevant. Medical records show clinicians involved in the 2019 prosecution anchored evaluations to the 2012 incident, and IA materials sought in discovery trace back to the same period. The Colacci affidavit confirms earlier IA investigations were not conducted under Attorney General guidelines and that key station video was never preserved—early failures that laid the groundwork for years of unchecked abuse.

Barnes makes clear why this approach is unconstitutional: courts cannot evaluate constitutional reasonableness through a narrow post-hoc snapshot while ignoring years of interactions, incomplete investigations, sustained retaliation, and withheld discovery. Unlike the criminal court, which reviewed the full 2012–2021 chronology before dismissing the 2019 prosecution with prejudice, the courts below adopted the very chronological blinders Barnes forbids.

V. Monell Liability and Weaponization of Mental-Health Systems

Monell liability was never analyzed

After dismissing the Police Department as a non-suable entity, the district court simply stopped. That is not how Monell works. Municipal liability attaches to the Borough, not the Department, and once the Department was dismissed the court was obligated—not permitted—to examine whether the Borough's policies, customs, or supervisory failures caused the constitutional violations alleged. The Borough's institutional practices—including confirmed IA failures, admitted non-preservation of station video, and documented coordination with the Prosecutor's Office—were never reviewed. This is not a pleading issue; it is legal error and a departure from Monell's mandatory framework.

Doctrinal Violations / Rule 10 Significance

- Refusing to conduct Monell analysis after dismissing the Police Department violates Monell v. Dep't of Social Services, 436 U.S. 658 (1978).
- The complaint and record squarely identified municipal-policy issues—IA

failures, video-preservation failures, and systemic coordination with prosecutors—the very categories of evidence the government withheld and the court refused to enforce.

• Bypassing Monell scrutiny at summary judgment is a recurring shortcut in unpublished § 1983 decisions, allowing municipalities to escape liability simply by relabeling the entity.

• This case cleanly presents that pattern and shows how discovery obstruction compounds the Monell error.

Petitioner never claimed the Police Department was a separate "person" under § 1983. The error is that the court, after dismissing the Department, did not analyze the Borough at all. The record identified classic Monell issues: Lt. Colacci's affidavit admitting that IA investigations were not conducted under Attorney General guidelines and that key station video was never preserved; systemic coordination between Borough officers and the County Prosecutor's Office; and repeated use of psychiatric labels to discredit Petitioner and avoid accountability. These allegations describe policy, custom, and supervisory failure—not isolated negligence. Under Monell, such patterns require careful analysis, often by a jury.

The retaliatory misuse of mental-health procedures was likewise raised from the outset. Petitioner alleged coordinated use of psychiatric labels by police, prosecutors, and affiliated clinicians to justify renewed prosecutions, delay proceedings, undermine credibility, and chill protected speech. The District Court relied on Petitioner's supposed "mental-health history" when assessing probable cause, confirming the issue was central to the record.

Subsequent state-court proceedings have since validated this pattern in Fakla v. UBHC, et al., MID-L-003942-25 (N.J. Super. Ct. Law Div. July 14, 2025) (Corman, J.). In 2025, a state judge issued a Temporary Restraining Order restraining the same actors for similar misuse of mental-health mechanisms, based on documentary evidence—including emails originating from this litigation—showing coordination with prosecutorial officials to weaponize clinical processes for control and harassment. That TRO does not create a new argument; it corroborates the original one. Under Thompson, such evidence is powerful proof of malice and improper purpose in a malicious-prosecution case. Whether officials

acted out of good-faith concern or retaliation is a question for a jury, not something to be foreclosed at summary judgment on an incomplete record.

Doctrinal Violations / Rule 10 Significance

- From the outset, Petitioner alleged coordinated misuse of psychiatric evaluations to criminalize speech, sanitize misconduct, and suppress civil claims.
- The 2025 TRO found good cause to restrain the same officials for the same conduct, based on evidence tied directly to this case.
- Under Thompson, such conduct is probative evidence of malice and improper purpose.
- Courts cannot replace legal analysis with psychiatric stigma; allowing that practice invites systemic abuse of mental-health mechanisms to shut down § 1983 claims and recast constitutional grievances as pathology.
- This recurring pattern raises issues of exceptional national importance.

VI. "Waiver," Stigma, and the Need for Review

Respondents' "waiver" argument fails

Every issue was preserved through motions to compel, Rule 37 filings, Rule 56(d) declarations, objections to the limitations ruling, and repeated reliance on Thompson, Coello, and now Barnes. The magistrate even held an off-the-record sanctions hearing that was never docketed, leaving the discovery posture artificially opaque. Under Williams, judicial avoidance is not waiver.

Doctrinal Violations / Rule 10 Significance

- Unable to defend the rulings on the merits, Respondents invoke waiver; the record shows the opposite.
- Petitioner moved to compel, sought Rule 37 sanctions, filed detailed Rule 56(d) declarations, objected to the June 17 cutoff, sought reconsideration, and repeatedly invoked Thompson, Coello, and the misuse of mental-health mechanisms in both courts.
- Under United States v. Williams, 504 U.S. 36, 41 (1992), an issue is preserved when properly raised—even if the lower court refuses to address or mischaracterizes it.

• The lower courts' pattern of sidestepping dispositive issues and then allowing Respondents to cry "waiver" is itself a structural defect warranting review.

Respondents' rhetoric confirms the avoidance

Their brief describes Petitioner's filings as "rambling," "frequently incoherent," and "incredulous"—language mirroring the stigmatizing tactics officials used for years to discredit Petitioner's complaints, justify escalated surveillance, and transform civil-rights grievances into psychiatric narratives. Stigma is not law. Where the record shows persistent discovery obstruction, premature closure of discovery, misapplication of Thompson, one-sided use of limitations, and weaponization of mental-health procedures, the judiciary's duty is to confront those issues—not dismiss them with adjectives.

Respondents' omissions are equally revealing

They omit that officers admitted they lacked probable cause; that the affidavit was drafted after the fact; that discovery orders were ignored; that sanctions were denied ex parte; that key IA files and prosecutorial communications were never produced; and that a later TRO confirmed the same pattern of retaliatory psychiatric misuse. These omissions mirror the government-manufactured record void the lower courts treated as "undisputed." These are not factual disputes—they are procedural breakdowns.

Doctrinal Violations / Rule 10 Significance

• Respondents rely on omission because acknowledging the full record would concede reversible error.
• Summary judgment cannot stand where discovery was ordered, withheld, and never produced; where sanctions were denied ex parte; or where a dismissal with prejudice is relabeled as a competency disposition to evade Thompson.
• Unpublished decisions increasingly dispose of § 1983 cases involving withheld discovery, premature summary judgment, mischaracterized dismissals, and psychiatric labels used to sanitize misconduct.
• Treating this case as "fact-specific" because it is unpublished would entrench those same unconstitutional shortcuts.
• This case presents five nationally recurring legal questions:

1. Whether summary judgment may issue while the government defies discovery orders;

2. Whether a dismissal with prejudice satisfies Thompson's favorable-termination rule;

3. Whether limitations may be weaponized as a one-sided evidentiary bar;

4. Whether Monell liability may be evaded by labeling a police department non-suable; and

5. Whether psychiatric mechanisms may be weaponized to avoid accountability.

These omissions—and the structural errors they conceal—underscore why Rule 10 review is necessary.

CONCLUSION

As Justice Brandeis warned in his dissent in *Olmstead v. United States*, 277 U.S. 438, 485 (1928):

> "Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, the existence of the government will be imperiled if it fails to observe the law scrupulously.
>
> Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.
>
> To declare that in the administration of the criminal law the end justifies the means—to declare that the Government may commit crimes in order

> to secure the conviction of a private criminal—would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face."

That admonition fits this case with precision. By tolerating sabotage, the manipulation of mental-health processes, the withholding of core investigative files, and the disregard of controlling precedent, the courts below endorsed the very dynamic Brandeis condemned. The national importance of enforcing Thompson cannot be overstated. Without intervention, appellate courts will continue to see § 1983 cases quietly destroyed through unpublished dispositions, psychiatric relabeling, and procedural devices that shield official misconduct, deny victims redress, and erode public confidence in the judiciary.

The judgment below conflicts with Thompson, Coello, and Barnes, rests on an incomplete and government-manufactured record, and exemplifies the growing use of unpublished opinions to insulate systemic due-process violations from review. At minimum, a grant-vacate-remand is warranted under Barnes, which forecloses the truncated methodology used below and requires consideration of the full context—the very evidence the government withheld and the courts refused to examine.

The questions presented here go to the integrity of federal civil-rights adjudication:

- whether courts may grant summary judgment on a record the government itself prevented from becoming complete;
- whether favorable termination under Thompson may be rewritten through post-hoc psychiatric labels;
- whether statutes of limitations may be transformed into one-sided evidentiary barriers; and
- whether municipalities can evade Monell scrutiny simply by dismissing a department.

These are recurring issues of national importance, and this judgment illustrates how easily they become insulated when left to unpublished dispositions. Rule 10 exists for cases precisely like this—where lower-court reasoning conflicts with this Court's precedent and recurring constitutional violations will continue to evade review unless the Court intervenes. Allowing an incomplete,

government-manufactured record to control the outcome of a § 1983 case would erode Thompson and Barnes and invite repetition of the same procedural shortcuts nationwide.

For these reasons, Petitioner respectfully requests that the Court grant the petition for a writ of certiorari or, at minimum, grant, vacate, and remand for reconsideration in light of *Thompson v. Clark* and *Barnes v. Felix*.

Respectfully Submitted with Integrity,

John A Fakla
Petitioner, Pro Se
521 Norwich Court
Piscataway, NJ 08854
JFakla37@gmail.com
732-754-9627
December 8, 2025